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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,843	01/17/2001	Hironobu Ishida	2091-0230P-SP	4586
2292	7590	08/08/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			DUONG, THOMAS	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,843

Applicant(s)

ISHIDA, HIRONOBU

Examiner

Thomas Duong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-13, 15-21, 23-27, and 33-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13, 15-21, 23-27, and 33-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the applicants Amendment filed on May 15, 2006.
Applicant amended *claims 2-5, 7-8, 10-13, 15-16, 18-21, 23-27, 33-34, and 36-38* and added *claims 39-66*. *Claims 1-5, 7-13, 15-21, 23-27, and 33-66* are presented for further consideration and examination.

Election/Restrictions

2. Applicant's election without traverse of *claims 1-27 and 33-35* in Response to Election/Restriction filed on September 26, 2005 is acknowledged.
3. *Claims 28-32* are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Response to Election/Restriction filed on September 26, 2005. In response to this office action, cancellation of nonelected claims is required from the applicant.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-2, 7-10, 15-18, 23-27, and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arias (US005724514), in view of Wicklund (US006295295B1), and further in view of Miller et al. (US005920701A).

6. With regard to claims 1, 9, 17, and 35, Arias discloses,

- *measuring a transfer rate of the network at the time the client requests transfer of image data sets from the server; and* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C)

Arias discloses, *"the transfer time of the representative data object is determined. An effective transfer rate for the communications link is determined using the transfer time and object size"* (Arias, col.4, lines 26-29). Hence Arias teaches of determining the effective transfer rate of the communication channel.

- *determining the number of the image data sets to be sent to the client in response to the transfer request, based on the transfer rate and a permitted transfer time determined in advance.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C)

Arias discloses, *"to determined a desired number or range of concurrent transfers of secondary data objects. The desired number or range of concurrent transfers of secondary data objects may then be maintained using standard well known queuing techniques"* (Arias, col.10, lines 51-55). Hence, Arias teaches of determining the number or range of data sets needed to transfer the subsequent requested data.

However, Arias does not explicitly disclose,

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- determining the number of the image data sets to be sent to the client in response to the transfer request, based on the transfer rate and a permitted transfer time determined in advance.

Wicklund teaches,

- determining the number of the image data sets to be sent to the client in response to the transfer request, based on the transfer rate and a permitted transfer time determined in advance. (Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67)

Wicklund discloses, “said minimum packet transfer rate being used to determine a maximum value of the counting means, and hence the number of packets to be transferred on a selected logical channel during a predetermined time period, to allow more than one packet to be sorted into the first substructure for the logical channel code according to the bandwidth of the logical channel” (Wicklund, col.11, lines 54-60). Hence, Wicklund teaches of determining the number of packets to be transferred based on the transfer rate and the predetermined time period.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Wicklund with the teachings of Arias to “determine the effective data transfer rate of the primary data object and select the approach used to obtain the secondary data objects” (Arias, col.6, lines 60-63). According to Arias, “the desired number or range of concurrent transfers of secondary objects may then be maintained using standard well known queuing techniques” (Arias, col.10, lines 52-55). Furthermore, according to Wicklund, “the number of packets to be transferred on a selected logical channel during a

predetermined time period, to allow more than one packet to be sorted into the first substructure for the logical channel code according to the bandwidth of the logical channel” (Wicklund, col.11, lines 56-60).

However, Arias and Wicklund do not explicitly disclose,

- *transferring to the client a message notifying that the number of the image data sets to be transferred is 0 in the case where the number of the image data sets to be transferred has been determined to be 0.*

Miller teaches,

- *transferring to the client a message notifying that the number of the image data sets to be transferred is 0 in the case where the number of the image data sets to be transferred has been determined to be 0. (Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57)*

Miller discloses, *“in this step, the scheduler 10 determines whether the total transmission time during which data transfer is scheduled to occur is within the available transmission time... If data transfer cannot occur within the available transmission time... control is routed to step 106 and the content sources 12, 14 are notified that their requests will not be accommodated” (Miller, col.12, lines 55-64).* Hence, Miller teaches of notifying the requested party that their requests cannot be accommodated in the case where the data transfer cannot occur within the available transmission time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Miller with the teachings of Arias and Wicklund to *“determine the effective data transfer rate of the primary data object and select the approach used to obtain the secondary data objects” (Arias, col.6,*

lines 60-63). According to Arias, *"the desired number or range of concurrent transfers of secondary objects may then be maintained using standard well known queuing techniques"* (Arias, col.10, lines 52-55). Furthermore, according to Wicklund, *"the number of packets to be transferred on a selected logical channel during a predetermined time period, to allow more than one packet to be sorted into the first substructure for the logical channel code according to the bandwidth of the logical channel"* (Wicklund, col.11, lines 56-60). In addition, according to Miller, *"it is an object of the present invention to coordinate the transfer of data to replicated sites from multiple content sources such that network resources [such as bandwidth] are optimally utilized"* (Miller, col.1, lines 51-56).

7. With regard to claims 2, 10, and 18, Arias, Wicklund, and Miller disclose,

- *further comprising the step of transferring the image data sets whose number has been determined from the server to the client.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57)

8. With regard to claims 7, 15, 23, and 34, Arias, Wicklund, and Miller disclose,

- *further comprising the step of transferring information representing the transfer rate to the client.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57)

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9. With regard to claims 8, 16, and 24, Arias, Wicklund, and Miller disclose,
- *wherein the image data sets are thumbnail image data for displaying, on the client, thumbnail images comprising images represented by the image data sets.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57)
10. With regard to claims 25-27, Arias discloses,
- *wherein an amount of time necessary for transferring the number of image data sets is approximately the permitted transfer time.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57)
11. Claims 3-5, 11-13, 19-21, 33, and 36-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arias (US005724514), in view of Wicklund (US006295295B1), further in view of Miller et al. (US005920701A), and further in view of Mogul et al. (US006243761B1).
12. With regard to claims 3, 11, and 19, Arias, Wicklund, and Miller disclose,
- See *claims 2, 10 and 18* rejection as detailed above.
- However, Arias, Wicklund, and Miller do not explicitly disclose,

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- *wherein the step of transferring is the step of transferring the image data sets whose number has been determined from the server to the client, based on priority of the image data sets whose transfer is requested.*

Mogul teaches,

- *wherein the step of transferring is the step of transferring the image data sets whose number has been determined from the server to the client, based on priority of the image data sets whose transfer is requested.* (Mogul, col.10, lines 59-65; col.7, line 22 – col.8, line 21)

Mogul discloses, *"the method of claim 1 wherein the multimedia content of the Web page includes annotations that indicate priority order for specified portions of the Web page, and the method includes sending the client computer the specified portions of the Web page in the indicated priority order to enable fast partial rendering of the Web page at the client computer"* (Mogul, col.10, lines 59-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Mogul with the teachings of Arias, Wicklund, and Miller to optimally send the requested data objects to the client in a reasonable amount of time by transferring the portions with higher priority first, reducing the size, resolution or number of colors of a graphic image, reducing the frame rate of a video data, or reducing the sampling rate of an audio data. According to Mogul, *"the adjusting can take into consideration annotations made to the Web page, such as a target time to down-load the Web page"* (Mogul, col.4, lines 31-33).

13. With regard to claims 4, 12, 20, and 33, Arias, Wicklund, Miller, and Mogul disclose,

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- *further comprising the step of transferring, from the server to the client, low volume data sets of a remaining portion of the requested image data sets excluding the image data sets whose transfer from the server to the client has been determined.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57; Mogul, col.5, lines 46-66; col.7, line 22 – col.8, line 21; col.10, lines 59-65)

14. With regard to claims 5, 13, and 21, Arias, Wicklund, Miller, and Mogul disclose,

- *further comprising the step of transferring from the server to the client, in the case where transfer of the image data sets corresponding to the low volume data sets is requested, the image data sets corresponding to the low volume data sets whose transfer is requested.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57; Mogul, col.5, lines 46-66; col.7, line 22 – col.8, line 21; col.10, lines 59-65)

15. With regard to claims 39-42, 47-50, and 55-58, Arias, Wicklund, Miller, and Mogul disclose,

- *further comprising the step of transferring information representing the transfer rate to the client.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57; Mogul, col.5, lines 46-66; col.7, line 22 – col.8, line 21; col.10, lines 59-65)

16. With regard to claims 43-46, 51-54, and 59-62, Arias, Wicklund, Miller, and Mogul disclose,

- *wherein the image data sets are thumbnail image data for displaying, on the client, thumbnail images comprising images represented by the image data sets.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57; Mogul, col.5, lines 46-66; col.7, line 22 – col.8, line 21; col.10, lines 59-65)

17. With regard to claims 36-38, Arias, Wicklund, Miller, and Mogul disclose,

- *wherein the priority of the image data sets is set based on any one or more of an order of file size, an order of image size, generation, chronological order chronological order of image data of photographing, chronological order of last access, and order of user preference.* (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57; Mogul, col.5, lines 46-66; col.7, line 22 – col.8, line 21; col.10, lines 59-65)

18. With regard to claims 63-66, Arias, Wicklund, Miller, and Mogul disclose,

- *wherein the number of the image data sets to be transferred is determined to be 0 prior to transferring any of the image data sets when none of the requested image data sets in the server can be completely transferred within the permitted*

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transfer time. (Arias, col.1, line 16 – col.4, line 32; col.5, line 47 – col.10, line 67; module 248, fig.7A-7C; Wicklund, col.4, lines 8-38; col.11, line 1 – col.12, line 67; Miller, col.1, line 51 – col.3, line 67; col.12, line 9 – col.13, line 57; Mogul, col.5, lines 46-66; col.7, line 22 – col.8, line 21; col.10, lines 59-65)

Response to Arguments

19. Applicant's arguments with respect to *claims 1, 9, 17, and 35* have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The

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examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason D. Cardone can be reached on 571/272-3933. The fax phone numbers for the organization where this application or proceeding is assigned are 571/273-8300 for regular communications and 571/273-8300 for After Final communications.

Thomas Duong (AU2145)

August 2, 2006



Jason D. Cardone

Supervisory PE (AU2145)